

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

GOLD BANK,)	
)	
Plaintiff,)	
)	
v.)	Case No. 04-0565-CV-W-FJG
)	
POST HILL GREENS, L.L.C., et al.)	
)	
Defendants.)	

ORDER

Currently pending before the Court is Gold Bank's Statement of Monetary Amounts to Which it is Entitled to Judgment (Doc. # 143) and Gold Bank's Motion to Substitute Party (Doc. # 144).

On March 31, 2006, the Court granted Gold Bank's Motion for Summary Judgment on Counts I, II and III of Barth's Counterclaims and provisionally denied Gold Bank's Motion for Summary Judgment on Count IV of the Counterclaim. On October 6, 2006, the Court after further briefing granted Gold Bank's Supplemental Motion for Summary Judgment on Count IV of Barth's Counterclaim. The Court also granted Gold Bank's Motion for Summary Judgment on Counts I and II against Post Hill Greens and Barth. The Court also granted Gold Bank's Motion to substitute Marilyn Barth as the personal representative of the Estate of Edgar L. Barth, for decedent Edgar Barth. Gold Bank has now filed a Statement with the Court of the monetary amounts to which it is entitled pursuant to the judgment.

Gold Bank states that it is entitled to judgment against Post Hill Greens, LLC under the promissory note dated June 15, 2003, in the principal sum of \$2,531,741.03

and for unpaid interest on that note August 12, 2004 through October 19, 2006, in the sum of \$247,691.49 and for an additional sum of \$404.38 per day from October 20, 2006 until the date judgment is entered. Additionally, Gold Bank states that it is entitled to attorney fees in the amount of \$313,428.30 and for collection costs in the amount of \$36,899.95. The total amount of the indebtedness as of October 19, 2006 is \$3,129,760.77. This amount will increase by \$404.38 per day until the date judgment is entered.

Gold Bank states it is also entitled to judgment against Marilyn Barth, in her capacity as Personal Representative of the Estate of Edgar L. Barth, deceased, under the guaranty executed by Edgar L. Barth in the principal sum of \$1,700,000.00. Additionally, Gold Bank states it is entitled to unpaid accrued interest on that sum from August 12, 2004, through October 19, 2006, in the sum of \$213,710.96, and for an additional sum of \$267.81 per day from October 20, 2006 until the date of judgment. Additionally, Gold Bank states it is entitled to attorney fees in the sum of \$313,428.30 and for collection costs in the amount of \$36,899.95. The total amount of such indebtedness is \$2,264,039.21. The amount will increase by \$267.81 per day until the date judgment is entered.

Gold Bank did not separately calculate the attorney fees or collection costs which were incurred as to each claim. Therefore, in order to avoid a double recovery, the Court hereby divides in half the attorney fees and collection costs incurred under each claim. Accordingly, the Court hereby awards judgment to Gold Bank against Post Hill Greens, L.L.C. in the amount of \$2,954,596.65. Gold Bank is also entitled to an additional sum of \$404.38 per day from October 20, 2006 until the date of this judgment.

The Court also awards judgment to Gold Bank against Marilyn Barth, personal representative of the Estate of Edgar Barth, in the following amount:
\$2,088,875.09. Gold Bank is also entitled to an additional sum of \$267.81 per day from October 20, 2006 until the date of this judgment.

The Court also grants Gold Bank's Motion for Substitution of M & I (Marshall & Ilsley Bank) as Plaintiff (Doc. # 144). M & I Bank is hereby substituted as the plaintiff in this action in place of Gold Bank.

Date: 1/22/07
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge